REMARKS

Applicants have studied the Office Action mailed August 12, 2004 and have made amendments to the specification and claims. It is respectfully submitted that the application, as amended, is in condition for allowance. Reconsideration and allowance of the pending claims in view of the above amendments and following remarks is respectfully requested.

Specification - Sequence Requirements:

The Examiner objected to the specification for failing to comply with the sequence requirements because of sequence disclosures at page 3, line 26, which come within the definitions of the Sequence Rules and Regulations.

Applicants hereby submit a Second Substitute Sequence Listing that includes the amino acid sequences disclosed on page 3 of the specification, and have amended the specification, as indicated above by a replacement paragraph, to assign Sequence Identification Numbers to these amino acid sequences on page 3 (SEQ ID NOS:6-9).

Specification - Hyperlinks:

The Examiner objected to the disclosure for containing embedded hyperlinks.

Applicants have hereby deleted all hyperlinks from the specification, as indicated above by the replacement paragraphs. The hyperlinks were not needed for enablement of the present invention, but rather merely provided additional background information.

Rejection of claim 9 under 35 USC §112, 1st paragraph:

The Examiner rejected claim 9 under 35 USC §112, 1st paragraph, because the specification, while being enabling for methods of making the host cell in vitro, does not reasonably provide enablement for methods of making the host cell in vivo.

In response, Applicants have hereby amended claim 9 to clarify that the claim is directed to isolated host cells.

Rejection of claims 4, 8-9, 13, 24-25, and 27-29 under 35 USC §102(b):

The Examiner rejected claims 4, 8-9, 13, 24-25, and 27-29 under 35 USC §102(b) as being anticipated by Cismowski et al. (WO/99/58670). In making the rejection, the Examiner states that Cismowski et al. disclose the isolated nucleic acid of SEQ ID NO:1 with the exception of a substitution of a G nucleotide for a C nucleotide at position 533, and that Cismowski et al. disclose the isolated nucleic acid encoding SEQ ID NO:2 with the exception of X at position 166 in place of serine.

Applicants respectfully traverse this rejection based on the following remarks.

It is clear, as the Examiner has stated, that differences exist between the nucleic acid (SEQ ID NO:1) and protein (SEQ ID NO:2) sequences of the instant claims and the nucleic acid and protein sequences of Cismowski et al. Because of these differences, Cismowksi et al. can not anticipate the instant claims under 35 USC §102. For prior art to anticipate under 35 USC §102, every element of the claims must be identically disclosed in a single reference; the exclusion of any claimed element, no matter how insubstantial, from a prior art reference is sufficient to negate anticipation.

Accordingly, Applicants respectfully assert that the rejection of claims 4, 8-9, 13, 24-25, and 27-29 under 35 USC §102(b) is improper and that the rejection therefore be withdrawn.

Conclusions

By way of the above amendments, claim 9 has been amended. As such, claims 4, 8-9, 13, and 24-29 remain pending. The amendments to the claims and specification add no new subject matter and their entry is respectfully requested.

In view of the above amendments and remarks, Applicants respectfully submit that the application and claims are in condition for allowance, and request that the Examiner reconsider and withdraw the rejections. If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is invited to call the undersigned agent at (240) 453-3812 should the Examiner believe a telephone interview would advance prosecution of the application.

Respectfully submitted,

CELERA GENOMICS

Date: December 10, 2004

By: _____
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